UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/2001/NGO/36
18 January 2001

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-seventh session
Item 19 of the provisional agenda

ADVISORY SERVICES AND TECHNICAL COOPERATION IN THE FIELD OF HUMAN RIGHTS

Written statement*/ submitted by Human Rights Watch,
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[5 January 2001]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE.*200'0'0364*

ENG

We wish to bring to the Commission's attention three countries in which the Office of the High Commissioner is engaged in activities ranging from on the ground human rights monitoring, through technical assistance and institution building, to laying the groundwork for future technical cooperation. We call on the Commission and on the High Commissioner to take measures that would strengthen these activities and make their impact on the human right conditions in each country stronger.

Burundi

The civil war continued in Burundi, with both the government and rebel forces responsible for atrocities against civilians. Members of the armed forces have abused civilians without being held accountable by their superiors or the government as a whole. They have also failed to protect civilians, permitting attacks even within the city of Bujumbura without any reaction. Rebels have continued to kill civilians and to loot their property.

The special rapporteur on Burundi, Marie-Therese A. Keita Boucoum, has been able to visit Burundi only briefly, but spoke out clearly against killings and other abuses by both military and rebels. We urge the Commission to renew her mandate.

The field office of the High Commissioner of Human Rights, which cut its staff in late 1999 following a security alert, operated in 2000 with reduced staff and resources. Thus handicapped, it limited its work mostly to improving the judicial system and did not report publicly on human rights abuses. It even stopped circulating confidential reports to the diplomatic community. We urge the Commission to strengthen the field office with the mandate and resources necessary for rigorous monitoring and public reporting, particularly during this transition period following the Arusha Accords when establishing respect for human rights will be crucial for ensuring peace.

More than 100,000 civilians have been slain in Burundi, both by Hutu and by Tutsi. Many of these killings are crimes against humanity and some have been described as genocide by a U.N. commission of inquiry. They must be prosecuted promptly by an international tribunal and by Burundian courts which meet international fair trial standards. In order to end impunity, we urge the Commission to publicly reaffirm that leaders on all sides who were responsible for war crimes or crimes against humanity must be brought to justice, using Burundian national courts as well as an international tribunal.

The majority of cases now pending would be judged in Burundian courts. Given the current limitations in number and resources of these courts, the Commission should call on member states to provide the assistance necessary for them to function effectively and with due process, including training new judicial personnel.

Cambodia

Since its establishment in 1994, the Cambodia Office of the High Commissioner for Human Rights (COHCHR) has played a key role in reporting on human rights violations and working with government institutions and Cambodian human rights organizations to improve the situation of human rights in Cambodia. While Cambodian NGOs are active nationally in human rights education and investigating abuses, rights groups that engage in high-profile advocacy and investigations are subject to government-sponsored attacks in the Cambodian press as well as

threats of prosecution or physical harm. Cambodian NGOs are also vulnerable to arbitrary closure or harassment by the government because of the lack of legislation clarifying their legal status. Human Rights Watch supports the COHCHR and urges the Commission to continue to provide strong backing for its efforts.

In October 1999, the U.N. Special Representative for Human Rights in Cambodia negotiated a new, two-year extension of the COHCHR's mandate, extending it to March 2002. However, as of last December, the Cambodian government has not yet signed an MOU to formalize the agreement with the COHCHR. In addition, COHCHR staff -- particularly Cambodian nationals -- have come under threat and even physical attack during the course of their work on numerous occasions over the last six years. The issue of immunity for COHCHR staff needs to be resolved with the Cambodian government, as well as an eventual exit strategy for the time that the COHCHR ends its mandate in Cambodia.

During the last year, government attacks on Cambodian human rights groups and independent electoral monitoring coalitions have escalated. For example, Cambodian rights groups called for lawful investigations of widespread arrests of alleged Cambodian Freedom Fighters in November and the "disappearances" and extrajudicial executions of alleged "Free Khmer" members in August. Afterwards, local and national authorities made threatening statements against the human rights groups, with the Ministry of Defense announcing in September that it would file defamation charges against the Human Rights Action Committee, a coalition of human rights organizations that publicly condemned the extrajudicial executions and "disappearances" in Kratie province. As commune-level elections approach in 2002, it will be more important than ever for the COHCHR to remain active and to retain a high profile, particularly in its Monitoring and Protection Unit.

The COHCHR continues to conduct crucial monitoring and investigation work. The COHCHR played a particularly important role after the violent coup in 1997, in which First Prime Minister Hun Sen ousted Second Prime Minister Ranariddh. At that time hundreds of opposition political party members went into hiding or exile, and non-government organizations and independent journalists greatly scaled back their activities or practiced self-censorship. During that time the COHCHR emerged as virtually the only body that could effectively monitor and deter human rights violations without serious reprisals. The COHCHR documented more than one hundred extra-judicial executions carried out in the aftermath of the coup, which were forwarded in several memoranda to the government by the Special Representative for Human Rights in Cambodia.

The COHCHR increased its human rights monitoring staff during the 1998 national elections. Thomas Hammarberg, the U.N. Secretary-General's Special Representative for Human Rights, made numerous visits to Cambodia, speaking out strongly on the issues of impunity, political violence, lack of equal access to the media, independence of the judiciary, torture, and accountability. In January 2000, after nearly four years in office, Mr. Hammarberg resigned the post. We trust that Mr. Hammarberg's replacement, Peter Leuprecht, who made his first visit to Cambodia in late November 2000, will play an equally strong role.

China

Human Rights Watch welcomed China's decision last November to sign a Memorandum of Understanding (MOU) with the U.N. Office of the High Commissioner for Human Rights on the development and implementation of technical cooperation programs. However, we question whether these programs will lead to any significant human rights improvements.

China has a poor record of compliance with U.N. human rights standards, and of cooperation with its human rights mechanisms. China has circumvented provisions of the U.N. treaties it has signed, used the rubric of "the rule of law" to justify laws and regulations that clearly violate international human rights standards, and failed to implement the recommendations of the Commission's thematic mechanisms. Mr. Abdelfattah Amor, the Special Rapporteur on Religious Intolerance, visited China in November 1994, as did the Working Group on Arbitrary Detention in October 1997. However, Chinese authorities have yet to implement their reasonable and modest recommendations.

Despite the fact that China became a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1988, allegations of torture in detention centers and prisons -- particularly in Tibet and Xinjiang -- have not diminished. Negotiations for a first visit to China by Sir Nigel Rodley, the U.N. Special Rapporteur on Torture, have thus far produced no agreement as China insists upon special conditions.

The educational components of the U.N. High Commissioner's technical cooperation program in 2001 may be useful, including workshops on human rights education, on human rights and the police, and on minor crimes. However, these address only the periphery and not the core of the problem -- an apparent lack of political will by Chinese authorities to make the changes in practice essential for implementing international standards, and for effectively enforcing existing legal safeguards.

More potentially helpful are activities planned for the second phase of technical cooperation in 2002. They focus on human rights and the administration of justice, including the question of reeducation through labor, human rights treaties and reporting obligations, and the role of the procuracy. However, the MOU provides no details regarding the content and objectives of these projects, nor does it suggest who might participate, and how progress will be assessed.

Unfortunately, the semi-annual progress reports by the OHCHR senior official on program implementation are to be available only to the country concerned and to the Office of the High Commissioner. Human Rights Watch urges the High Commissioner to be rigorous in providing a detailed assessment of progress, paying particular attention to China's cooperation with the Commission's thematic mechanisms. She should not hesitate to cancel the agreement, as provided for in Article VII of the MOU, should China's full cooperation not be forthcoming.